

ACT No. VI OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th February 1864.)

*An Act to authorize the punishment of whipping in certain cases.*

Preamble. WHEREAS it is expedient that in certain cases offenders should be liable, under the provisions of the Indian Penal Code, to the punishment of whipping; It is enacted as follows:—

I. In addition to the punishments described in Section 53 of the Indian Penal Code, offenders are also liable to whipping under the provisions of the said Code.

Whipping added to the punishments described in Section 53 of the Penal Code.

II. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code, that is to say:—

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code.

1. Theft, as defined in Section 378 of the said Code.
2. Theft in a building, tent, or vessel, as defined in Section 380 of the said Code.
3. Theft by a clerk or servant, as defined in Section 381 of the said Code.
4. Theft after preparation for causing death or hurt, as defined in Section 382 of the said Code.
5. Extortion by threat, as defined in Section 388 of the said Code.
6. Putting a person in fear of accusation in order to commit extortion, as defined in Section 389 of the said Code.
7. Dishonestly receiving stolen property, as defined in Section 411 of the said Code.

8. Dishonestly

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8. Dishonestly receiving property stolen in the commission of a Dacoity, as defined in Section 412 of the said Code.

9. Lurking house-trespass, or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

10. Lurking house-trespass by night or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

III. Whoever, having been previously convicted of any one of the offences specified in the last preceding Section, shall again be convicted of the same offence, may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence be liable under the Indian Penal Code.

On second conviction of any offence mentioned in last Section, whipping may be added to other punishment.

IV. Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code, that is to say:—

Offences punishable, in case of second conviction, with whipping in addition to other punishment.

1. Giving or fabricating false evidence in such manner as to be punishable under Section 193 of the Indian Penal Code.

2. Giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in Section 194 of the said Code.

3. Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in Section 195 of the said Code.

4. Falsely charging any person with having committed an unnatural offence, as defined in Sections 211 and 377 of the said Code.

5. Assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in Section 354 of the said Code.

6. Rape, as defined in Section 375 of the said Code.

7. Unnatural offences, as defined in Section 377 of the said Code.

8. Robbery

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8. Robbery or Dacoity, as defined in Sections 390 and 391 of the said Code.
9. Attempting to commit Robbery, as defined in Section 393 of the said Code.
10. Voluntarily causing hurt in committing robbery, as defined in Section 394 of the said Code.
11. Habitually receiving or dealing in stolen property, as defined in Section 413 of the said Code.
12. Forgery, as defined in Section 463 of the said Code.
13. Forgery of a document, as defined in Section 466 of the said Code.
14. Forgery of a document, as defined in Section 467 of the said Code.
15. Forgery for the purpose of cheating, as defined in Section 468 of the said Code.
16. Forgery for the purpose of harming the reputation of any person, as defined in Section 469 of the said Code.
17. Lurking house-trespass or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.
18. Lurking house-trespass by night or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

V. Any juvenile offender who commits any offence which is not by the Indian Penal Code punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under the said Code.

Juvenile Offenders punishable with whipping for offences not punishable with death.

VI. Whenever any local Government shall by notification in the Official Gazette have declared the provisions of this Section to be in force in any Frontier District or any wild tract of country within the jurisdiction of such local Government, any person who shall in such district or tract of country after such notification as aforesaid commit any of the offences specified in Section IV of this Act, may be punished with whipping in lieu of any other punishment to which he may be liable under the Indian Penal Code.

When offences specified in Section IV may be punished with whipping in Frontier Districts and wild tracts.

VII. No

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VII. No female shall be punished with whipping, nor shall any person who may be sentenced to death, or to transportation, or to penal servitude, or to imprisonment for more than five years, be punished with whipping

Exemption of females.

VIII. No sentence of whipping shall be passed by any Officer inferior to a Subordinate Magistrate of the first class, unless he shall have been expressly empowered by the local Government to pass sentences of whipping.

Officers inferior to Subordinate Magistrate of the 1st Class not to pass sentence of whipping unless expressly empowered by Government.

IX. When the punishment of whipping is awarded in addition to imprisonment, by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or if an appeal be made within that time, until the sentence is confirmed by the superior Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or in case of an appeal immediately on the receipt of the order of the Court confirming the sentence if such order shall not be received within the fifteen days.

Whipping if awarded in addition to imprisonment, when to be inflicted.

X. In the case of an adult, the punishment of whipping shall be inflicted with such instrument in such mode and on such part of the person as the local Government shall direct, and in the case of a juvenile offender, it shall be inflicted in the way of school discipline with a light rattan. In no case, if the cat of nine tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or if the rattan be employed shall the punishment exceed thirty stripes. The punishment shall be inflicted in the presence of a Justice of the Peace, or of an Officer authorized to exercise any of the powers of a Magistrate, and also, unless the Court which passed the sentence shall otherwise order, in the presence of a Medical Officer.

Mode of inflicting the punishment.

XI. No sentence of whipping shall be carried into execution unless a Medical Officer, if present, certifies, or unless it appears to the Justice of the Peace or other Officer present, that the offender is in a fit state of health to undergo the punishment; and if during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the Officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, execution shall be stayed. No sentence of whipping shall be executed by instalments.

Punishment not to be inflicted if offender not in fit state of health.

Nor by instalments.

XII. In

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XII. In any case in which, under the last preceding Section of this Act, no part of a sentence of whipping is carried into execution, the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may, at its discretion, either order the discharge of the offender, or sentence him in lieu of whipping to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence; provided that the whole period of imprisonment shall not exceed that to which the offender is liable under the provisions of the Indian Penal Code, or that which the said Court is competent to award.

Procedure if punishment cannot be inflicted under the last Section.